BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

RICHARD M. HUDGINS	}
Claimant VS.	Decket No. 102 202
THE BOEING COMPANY - WICHITA Respondent) Docket No. 183,283
AND	{
AETNA CASUALTY & SURETY Insurance Carrier	}

ORDER

ON the 8th day of February, 1994, the application of the respondent for review by the Workers Compensation Appeals Board of a Preliminary Hearing Order entered by Administrative Law Judge Shannon S. Krysl on January 4, 1994, came on for oral argument by telephone conference.

APPEARANCES

The claimant appeared by and through his attorney, Michael V. Madden of Wichita, Kansas. The respondent and its insurance carrier appeared by and through their attorney, Eric K. Kuhn of Wichita, Kansas. There were no other appearances.

ISSUES

This is an appeal from a Preliminary Hearing Order granting temporary total disability and medical benefits. Respondent appeals contending that: 1) Claimant did not meet with personal injury by accident; 2) Claimant's accidental injury did not arise out and in the course of his employment; and, 3) Claimant failed to make timely written claim.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Claimant asks for temporary total disability and medical benefits because of dizziness he alleges resulted from a fall down a set of stairs at work. Respondent does not dispute the claim that Mr. Hudgins fell. Respondent does, however, contend the dizziness for which claimant seeks benefits did not result from that fall and is, therefore, not an injury which arose out of and in the course of his employment.

The Appeals Board finds that claimant has not met his burden to prove his dizziness was caused or aggravated by his fall. The fall at work occurred on August 20, 1992. The

IT IS SO ORDERED.

medical records reflect that on August 18, 1992, claimant sought medical care after he had become dizzy and had fallen at home. At the initial visit after his fall at work, claimant made no complaint of dizziness either at the time of or after his fall. The physician treating the claimant for a leg injury resulting from the fall at work concluded:

"....Mr. Hudgins's subsequent fall at Boeing on 8/20/92 was likely due to the dizziness he had and was not the causation of all of his dizziness problems. After reviewing his records, it is my opinion that his dizziness problems are pre-existent to his injury at Boeing on 8/20/92."

These facts, which are not adequately explained or rebutted, lead the Appeals Board to the conclusion that claimant has not met his burden of establishing the dizziness arose out of and in the course of his employment.

AWARD

WHEREFORE, the Appeals Board hereby reverses the January 4, 1994, Order of the Administrative Law Judge and denies the claimant's request for temporary total or medical treatment for dizziness.

Dated this day of Ap	ril, 1994.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

cc: Michael V. Madden, P.O. Box 3886, Wichita, Kansas 67201-3886 Eric K. Kuhn, 700 Fourth Financial Center, Wichita, Kansas 67202 Shannon S. Krysl, Administrative Law Judge George Gomez, Director